

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

KEVIN SLATTERY,

Plaintiff,

v.

KILOLO KIJAKAZI, Acting  
Commissioner of Social Security,<sup>1</sup>

Defendant.

No. 2:20-cv-0058 DB

ORDER

Plaintiff is proceeding pro se in this social security action. Both parties previously consented to Magistrate Judge jurisdiction over this action pursuant to 28 U.S.C. § 636(c). (See ECF No. 19.) However, on March 21, 2022, plaintiff filed a request for reassignment of this action to a District Judge. (ECF No. 20.)

“Under both the United States Code and the Federal Rules of Civil Procedure, once a civil case is referred to a magistrate judge under § 636(c), the reference can be withdrawn by the court only ‘for good cause on its own motion, or under extraordinary circumstances shown by any

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<sup>1</sup> After the filing of this action Kilolo Kijakazi was appointed Acting Commissioner of Social Security and has, therefore, been substituted as the defendant. See 42 U.S.C. § 405(g) (referring to the “Commissioner’s Answer”); 20 C.F.R. § 422.210(d) (“the person holding the Office of the Commissioner shall, in his official capacity, be the proper defendant”).

1 party.” Curlee v. Commissioner of Social Security, No. 1:20-cv-0145 NONE SAB, 2021 WL  
2 4061125, at \*1 (E.D. Cal. Aug. 18, 2021) (quoting 28 U.S.C. § 636(c)(4); Fed. R. Civ. P.  
3 73(b)(3)). However, “only a district judge may rule on a motion to withdraw consent to the  
4 jurisdiction of a magistrate judge under section 636(c)(4).” Branch v. Umphenour, 936 F.3d 994,  
5 1003 (9th Cir. 2019). Plaintiff’s motion, therefore, will be referred to a District Judge.

6 On April 8, 2022, defendant filed a motion for leave to amend the scheduling order. (ECF  
7 No. 22.) The motion is unopposed. (Id. at 2-3.) Defendant’s motion will be granted.

8 Accordingly, IT IS HEREBY ORDERED that:

9 1. The Clerk of the Court shall refer plaintiff’s March 21, 2022 motion to withdraw  
10 consent (ECF No. 20) to a District Judge;

11 2. Defendant’s April 8, 2022 motion to amend the scheduling order (ECF No. 22) is  
12 granted;

13 3. Within 14 days of the date of this order defendant shall file a motion for summary  
14 judgement<sup>2</sup>;

15 4. Within 45 days of the filing of defendant’s motion for summary judgment, plaintiff  
16 shall file an opposition or statement of non-opposition; and

17 5. Defendant shall file a reply, if any, within 15 days thereafter.

18 DATED: April 28, 2022

/s/ DEBORAH BARNES

UNITED STATES MAGISTRATE JUDGE

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27 <sup>2</sup> In connection with the motion to amend, defendant filed a proposed motion for summary  
28 judgment and asked that the court direct the Clerk to file the motion on behalf of the  
Commissioner. (ECF No. 22 at 3.) That request is denied.